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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 79 of 1991
and
INCOME TAX REFERENCE No 78 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHARAT BOBBINS LTD

Versus

COMMISSIONER OF INCOME TAX

Appearance:
1. INCOME TAX REFERENCE No. 79 of 1991
NOTICE SERVED for Petitioner No. 1
MR MIHIR H JOSHI with MR MANISH R BHATT for Respondent
2. INCOME TAX REFERENCE No. 78 of 1992
MR RK PATEL for Petitioner No. 1
MR MIHIR H JOSHI with MR MANISH R BHATT for Respondent

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 16/10/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In Income-tax Reference No. 79 of 1991, the following questions are referred at the instance of the assessee for our opinion in respect of assessment year 1983-84 :-

"(1) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in disallowing the claim of the deduction of interest Rs.85,808/- paid to the Income-tax Department under Section 220(2) ?

(2) Whether, in view of Sec. 80-V inserted by the Taxation Laws (Amendment) Act, 1975 with effect from 1.4.1976 (and omitted by the Finance Act, with effect from 1.4.1986) would not be applicable to the interest paid to Income Tax Department on outstanding instalments for paying income tax and paying the instalments duly with interest as granted under sub-section (3) of Section 202 ?"

(3) Whether the Tribunal was right in holding that the interest paid to the Income-tax Department under section 220(2) was not during course of business activities as a trader ?"

2. In Income-tax Reference No. 78 of 1992, the following question is referred at the instance of the assessee for our opinion in respect of assessment year 1984-85 :-

"Whether, on the facts and in the circumstances of the case the Tribunal was justified in holding that the assessee was not entitled to claim deduction of Rs.17,501/- being the interest paid to Income-tax Department in A.Y. 1984-85 ?"

3. We have heard Mr RK Patel, learned counsel for the applicant-assessee in Income-tax Reference No. 78 of 1992. Though served, none appears for the assessee in

Income-tax Reference No. 79 of 1991. We have also heard Mr Mihir H Joshi, learned counsel for the revenue.

4. Our attention is invited to the decisions of this Court in CIT vs Ashoka Mills Ltd., 218 ITR 526 and in Saraspur Mills Ltd. vs CIT, ITR No. 188 of 1983 taking the view that the assessee is not entitled to claim interest paid to the Income-tax department as a business expenditure either under Section 37 or under Section 28 or under Section 80-V of the Act.

5. Following the aforesaid decisions, our answer to all the questions referred for our opinion in these references is in the affirmative i.e. in favour of the revenue and against assessee.

6. The references accordingly stand disposed of with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-